

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 95 of 1984

in

APPEAL FROM ORDER No 315 of 1983

WITH

CIVIL APPLICATION NO. 887 OF 1984

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

IBRAHIMBhai SHAH MOHAMAD

Versus

NOORAHMED NOOR MOHAMAD

Appearance:

MR PV NANAVATI for Appellant
NOTICE SERVED for Respondent No. 1 and 2
MR AJ MEMON for Respondent No. 3

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE C.K.BUCH

Date of decision: 09/11/98

ORAL JUDGEMENT (Per Patel, J.)

Original defendant No.1 and other defendants, being aggrieved by an order passed by the learned City Civil Judge (Court No.3), Ahmedabad below Exh. 546 in Civil Suit No. 3615 of 1973 on 29.3.1983 had preferred Appeal from Order Nos. 314 to 316 of 1983. Present appellant had preferred Appeal from Order No. 315 of 1983. Learned Single Judge, after considering the facts and circumstances of the case, partly allowed Appeal from Order No. 314/83 and 316/83 and the order sentencing them to civil prison for a period of one month was set aside. However, Appeal from Order No. 315/83 preferred by the original defendant No.1, the appellant herein, came to be dismissed and his sentence was thus confirmed by the learned Single Judge.

Mr. Nanavati, learned advocate for the appellant, original defendant No.1, submitted that the property which was the subject matter of the litigation was partitioned by amicable settlement and now there is no dispute between the parties. He further submitted that even in the year 1986, the person who moved the Court, viz: Noor Ahmed Noor Mohmad pointed out that "the relations between the parties had become cordial and in the interest of family harmony and in view of the appellant's co-operation and spirit of give and take, the sentence of imprisonment passed on the present appellant may be reversed". Learned advocate has placed before us an affidavit sworn by the said Noor Ahmedabad Noor Mohamed on 17.1.1986, and the same is ordered to be taken on record. Moreover, the present appellant expired in 1990 and therefore the order of imprisonment would not survive.

In the result this appeal stands dismissed. Consequently, Civil Application No.887/84 would not survive and stands disposed of accordingly. Rule is discharged. Interim relief stands vacated. No order of costs in both these matters.

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